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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 3153/2024**

KAPIL GAUR

.....Petitioner

Through: Appearance not given

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Satish Kumar, APP for the State

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

11.11.2024

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1. The instant bail application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter as the “BNSS”) has been filed on behalf of the petitioner/applicant seeking grant of anticipatory bail in FIR No. 372/2024 dated 7th July, 2024 registered at Police Station - Maurya Enclave, Delhi for the offences punishable under Sections 309(4)/309(6)/315(2)/3(5) of the Bharatiya Nyaya Sanhita, 2023 (hereinafter as the “BNS”).

2. It is pertinent to note that the Status Report has already been filed by the concerned Investigating Officer, which is on record.

3. Learned counsel appearing on behalf of the applicant submitted that the applicant is an innocent person and has been falsely implicated in the instant case as he has not committed any offence as alleged in the aforesaid FIR.

4. It is submitted that there are three accused persons i.e., Mr. Kapil Gaur, the applicant herein, Mr. Raman Singh and Mr. Ankit Singh were allegedly involved in the instant case.



5. It is submitted that the prosecution falsely alleged that the applicant, along with the other accused persons, overtook the complainant's car, thereby hitting the car from the left side and causing damages to the same. Thereafter, the accused persons in the instant case manhandled the complainant, thereby causing grievous injuries. It was further alleged that the accused persons snatched the gold chain weighing 2.5 *tolas* and stole a sum of Rs. 15,000/- from the complainant. Accordingly, the aforesaid FIR was registered for the offences punishable under Sections 309(4)/309(6)/315(2)/3(5) of the BNSS.

6. It is submitted that the instant case is a simple case of road rage, however, upon procuring the statement of the complainant, the police had given a criminal colour of robbery to the case at hand. Furthermore, it is submitted that on the date of accident, the applicant alongwith Mr. Raman Singh, the co-accused, were merely changing the tires of their car and headed back home after completing the same, therefore, there exists no intention on part of the applicant to commit the offences as alleged in the aforesaid FIR.

7. It is further submitted that the applicant has no history of previous involvement in any criminal case and has clean antecedents. Moreover, the applicant is a permanent resident of Delhi.

8. It is also submitted that the co-accused, Mr. Raman Singh, who was allegedly the main accused in the instant case as well as the owner of the vehicle, was granted regular bail *vide* order dated 25th July, 2024 passed by learned ACJM, North West, Rohini Courts, Delhi, after languishing in jail for 15 days.

9. It is submitted that the Co-ordinate Bench of this Court *vide* order



dated 2nd September, 2024 directed that no coercive steps be taken against the applicant herein subject to him joining the investigation. Accordingly , a notice under Section 35(3) of the BNSS was served onto the applicant and he joined the investigation complying with the directions issued *vide* order dated 2nd September, 2024.

10. On instructions, the learned counsel for the applicant undertakes that the applicant shall abide by any condition imposed by this Court while granting anticipatory bail.

11. In view of the foregoing submissions, it is prayed that the applicant may be granted anticipatory bail.

12. *Per Contra*, learned APP appearing on behalf of the State has vehemently opposed the instant application submitting to the effect that the stolen gold chain is yet to be recovered from the accused persons, and therefore, custodial interrogation of the applicant is required for the same.

13. It is submitted that the applicant has committed serious offences under Sections 309(4)/309(6)/315(2)/3(5) of the BNSS and further, there are severe injuries inflicted on the complainant in the instant case.

14. It is further submitted that despite joining the investigation in compliance with the order dated 2nd September, 2024, the applicant has not cooperated with the investigation. However, while opposing the instant application, learned APP for the State has not denied the fact that the applicant has no criminal antecedents.

15. Therefore, in light of the foregoing, it is prayed that the instant application may be dismissed.

16. Heard learned counsel for the parties and perused the record.

17. Upon perusal of the status report on record, it is observed there is no



denial of the Investigating Officer regarding the applicant joining the investigation in compliance with the notice issued under Section 35(3) of the BNSS. It is also not denied that a sum of Rs. 3,200/- was recovered from the co-accused, Mr. Raman Singh, while he was languishing in custody for 15 days and that he was granted regular bail despite the same. Additionally, it was not denied that the applicant has no criminal antecedents.

18. Moreover, conditional protection has also been granted by the Co-ordinate Bench of this Court *vide* order dated 2nd September, 2024 subject to the appearance of the applicant before the Investigating Officer, which was duly complied by the applicant.

19. It is taken into consideration that the applicant is only 24 years of age and has undertaken to comply with the terms and conditions imposed upon him by this Court while granting him anticipatory bail.

20. Therefore, bearing in mind that the applicant has complied with the directions issued *vide* order dated 2nd September, 2024 and joined the investigation, absence of criminal antecedents, age and undertaking given by the applicant alongwith the fact that the co-accused, Mr. Raman Singh being released on regular bail, this Court is inclined to grant protection to the applicant.

21. Accordingly, it is directed that in the event of arrest, the applicant be released on bail on his furnishing a personal bond in the sum of **Rs.50,000/-** (Rupees Fifty Thousand only) with two solvent sureties of like amount to the satisfaction of the Investigating Officer subject to the conditions as follows:-

- a) The applicant shall surrender his passport, if any, to the Investigating Officer and shall under no circumstances



leave India without prior permission of the Court concerned;

- b) The applicant shall cooperate in the investigation and appear before the Investigating Officer/Court concerned of the case as and when required;
- c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and attempt to tamper any evidence;
- d) The applicant shall provide his mobile number(s) to the Investigating Officer and keep it operational at all times; and
- e) In case of change of residential address and/or mobile number, the same shall be intimated to the Investigating Officer/Court concerned by way of an affidavit.

22. With the aforesaid directions, the instant bail application is allowed and stands disposed of along with pending applications, if any.

23. It is made clear that the observations made herein, touching upon the merits of the case, are purely for the purpose of deciding the question of granting of protection to the applicant, which shall not be construed as an expression of observations on the merits of the case.

CHANDRA DHARI SINGH, J

NOVEMBER 11, 2024

rk/mk

Click here to check corrigendum, if any